

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 3 October 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved Hyde Park	
Subject of Report	34 Spring Street, London, W2 1JA,		
Proposal	Installation of one supply and one extract fan to the rear ground floor and refurbishment of existing timber plant enclosure.		
Agent	Miss Elena Beatrice Zonta		
On behalf of	Mr Gani Elkafi		
Registered Number	17/06089/FULL	Date amended/ completed	11 July 2017
Date Application Received	10 July 2017		
Historic Building Grade	Unlisted		
Conservation Area	Bayswater		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

Permission is sought for the installation of one supply and one extract fan unit to the rear ground floor level within an existing plant enclosure. The applicant also proposes refurbishing this plant enclosure by installing internal acoustic insulation and painting it white.

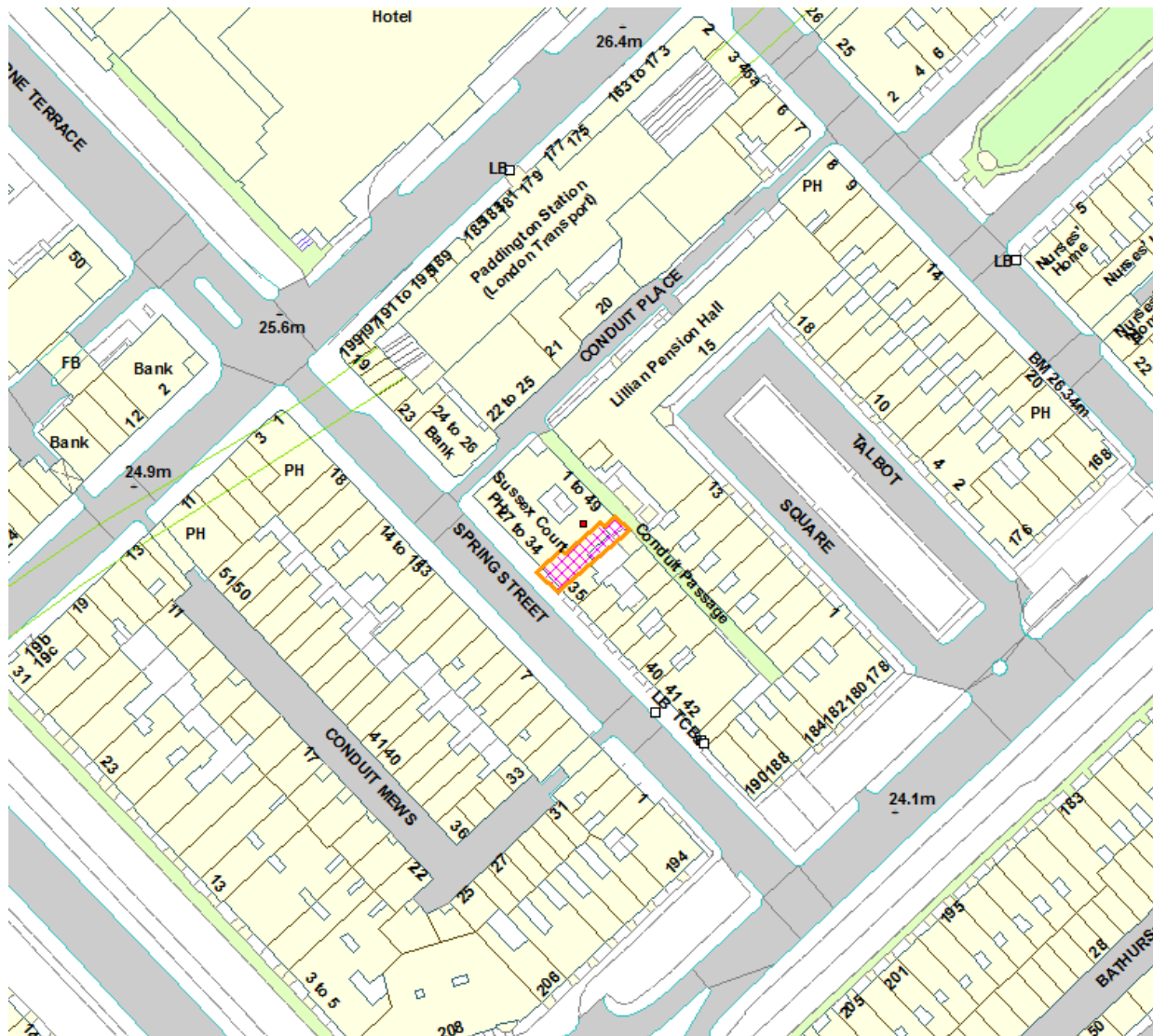
Seven letters of objection have been received which raise objections on a number of grounds, but particularly due to loss of residential amenity through noise and vibration and cooking odours.

The key issues are:

- Impact on the amenity of neighbouring residents; and
- Impact on the character and appearance of the conservation area.

The proposed development accords with relevant policies in the Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies (the City Plan) and is therefore acceptable in land use design and amenity terms. As such, the application is recommended for approval subject to the conditions set out in the draft decision letter.

3. LOCATION PLAN



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4. PHOTOGRAPHS



View of the Existing Extract Duct with Acoustic Enclosure in Foreground.

5. CONSULTATIONS

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION:

Objection on amenity grounds and to the potential cooking odour– request that conditions are attached to verify the actual noise levels and to limit the working hours of the plant.

PLANT & EQUIPMENT:

No objection subject to conditions.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 67

Total No. of replies: 8

No. of objections: 7

No. of supporters: 0

In summary, the following issues were raised:

Amenity

- Noise pollution
- Unpleasant smells
- Due to potential cooking odours, residents will resist opening windows
- Extent of proposed operating hours

Other

- Proposal would set a precedent
- Referenced other recent planning applications for plant in the area
- Use of the rear courtyard

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is an unlisted residential block of flats (Sussex Court) with a range of uses at ground floor level located within the Bayswater Conservation Area. The application site has been in use as a restaurant (Use Class A3) for many years, and is currently undergoing refurbishment so it can be used as a Mediterranean and Gulf restaurant named 'Layalleena'.

6.2 Recent Relevant History

Conditional permission was granted in 2016 for the installation of a new shopfront and canopy to the front of the application site (16/02663/FULL).

7. THE PROPOSAL

Planning permission is sought for the installation of one supply and one extract fan unit to the rear ground floor level within an existing acoustic enclosure. The enclosure would be refurbished through installation of internal acoustic insulation and painting it white.

8. DETAILED CONSIDERATIONS

8.1 Land Use

In land use terms, the proposed supply and extract fan unit and associated acoustic enclosure will be used ancillary to the existing restaurant (Use Class A3). The principle of the proposed plant is considered acceptable in land use terms.

8.2 Townscape and Design

The existing acoustic enclosure would be refurbished with the only substantial external change being a change of colour to white. No changes are proposed to the existing extract duct. Given the discreet location of this enclosure and the minor nature of these external works, the proposed development would preserve the character and appearance of this part of the Bayswater Conservation Area.

The proposal is considered to be acceptable in design terms and complies with policies DES 1 and DES9 of the UDP and S25 and S28 of the City Plan.

8.3 Residential Amenity

The acoustic enclosure already exists and there would be no change to its height, bulk or location under this application. Accordingly, the proposed development would not result in unacceptable loss of light, increased sense of enclosure or loss of privacy through overlooking.

The proposal is adjacent to the boundaries of 35 Spring Street and 35 Conduit Passage. No representation has been received from the owner and/or occupier of 35 Spring Street. An objection has been received from the owners of 35 Conduit Passage raising amenity concerns in terms of noise pollution. An objection from 36 Conduit Passage also raised amenity concerns in terms of noise pollution and odour.

The proposed plant is located within an existing acoustic enclosure. Accordingly, it would not require planning permission. Notwithstanding this, Environmental Health Officers have assessed the acoustic report that was submitted with the application and after requesting further information, consider that the proposed plant is likely to comply with the City Council's noise criteria, as set out in policy ENV 6 of the UDP, subject to the unit being installed within the proposed acoustic enclosure and hours of use. Subject to standard Westminster noise conditions and that the hours of use are limited to between from 06.00 and 23.00 it is not considered that the proposals would harm the amenity of neighbouring properties.

The proposal is considered acceptable in terms of residential amenity as it complies with policies ENV6, ENV 7 and ENV 13 of our UDP and S29 and S32 of our City Plan.

8.4 Transportation/Parking

Not applicable.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size

8.6 Access

The proposal does not have any adverse access implications.

8.7 Other UDP/Westminster Policy Considerations

None.

8.8 London Plan

This application raises no strategic issues.

8.9 National Policy/Guidance Considerations

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

8.10 Planning Obligations

Not applicable.

8.11 Environmental Impact Assessment

An Environmental Impact Assessment is not required for a development of this scale.

8.12 Other Issues

We have received an objection in regards to the proposal setting a precedent for other similar developments in the surrounding area. However, all applications are assessed on their own merits having regard to the nature of the proposal, the site it relates to and the development plan at the time of the application is made. Accordingly, an objection on this ground cannot be sustained.

Other planning applications in the surrounding area were referred to in an objection received by a local resident. However, these applications have been assessed and determined on their own merits or are the subject of enforcement investigation. Accordingly, an objection on this ground cannot be sustained.

An objector also raised concerns regarding potential use of the rear courtyard by the visitors and staff of the restaurant and resulting noise. However, the applicant has

confirmed that it will be used solely for staff and just for access to the acoustic enclosure. In any event, use of this courtyard area is not the subject of this application.

Objectors are also concerned with potential cooking odour from the restaurant. However, this could occur under the present arrangement. Notwithstanding, this application also proposes an upgrade to the extract equipment which would increase the ability of it to extract odour from the existing high level duct and this is acceptable to the Environmental Health Officer. Accordingly, an objection on this ground would not be sustainable.

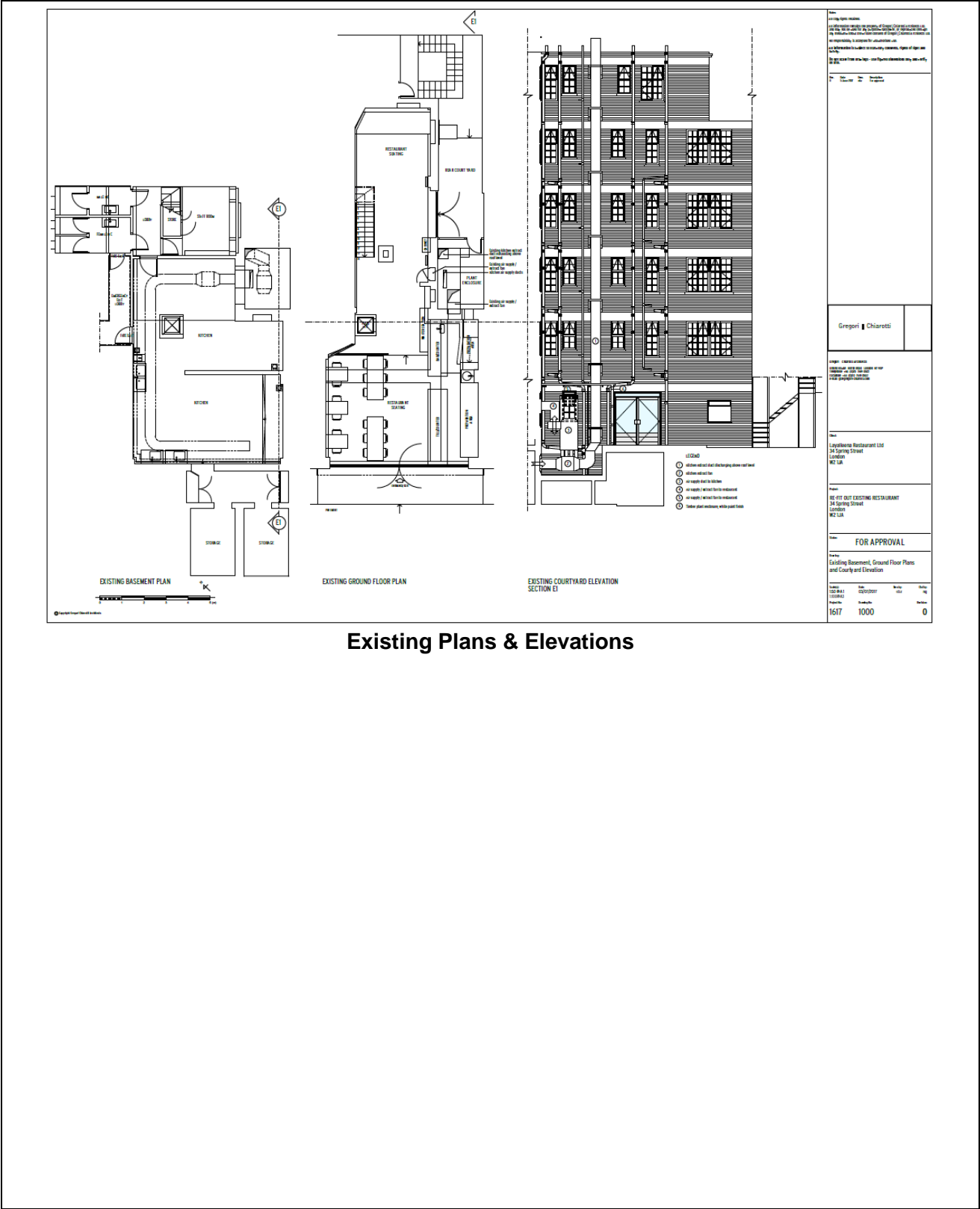
9. BACKGROUND PAPERS

1. Application form
2. Response from Environmental Health Officer, dated 8 September 2017
3. Response from South East Bayswater Residents Association, dated 31 July 2017
4. Letter from occupier of 36 Conduit Passage, London, dated 22 July 2017
5. Letter from occupier of 19 Sussex Court, Spring St., dated 23 July 2017
6. Letter from occupier of 37, 3, dated 25 July 2017
7. Letter from occupier of The Estate Office, Carrington House, 6 Hertford St, dated 9 August 2017
8. Letter from occupier of 35 conduit passage, london, dated 20 July 2017
9. Letter from occupier of flat 6, 31 spring St, dated 19 August 2017
10. Letter from occupier of 48 Sussex Court, Spring St, dated 18 July 2017
11. Letter from occupier of The Estate Office Carrington House, 6 Hertford Street, dated 14 August 2017

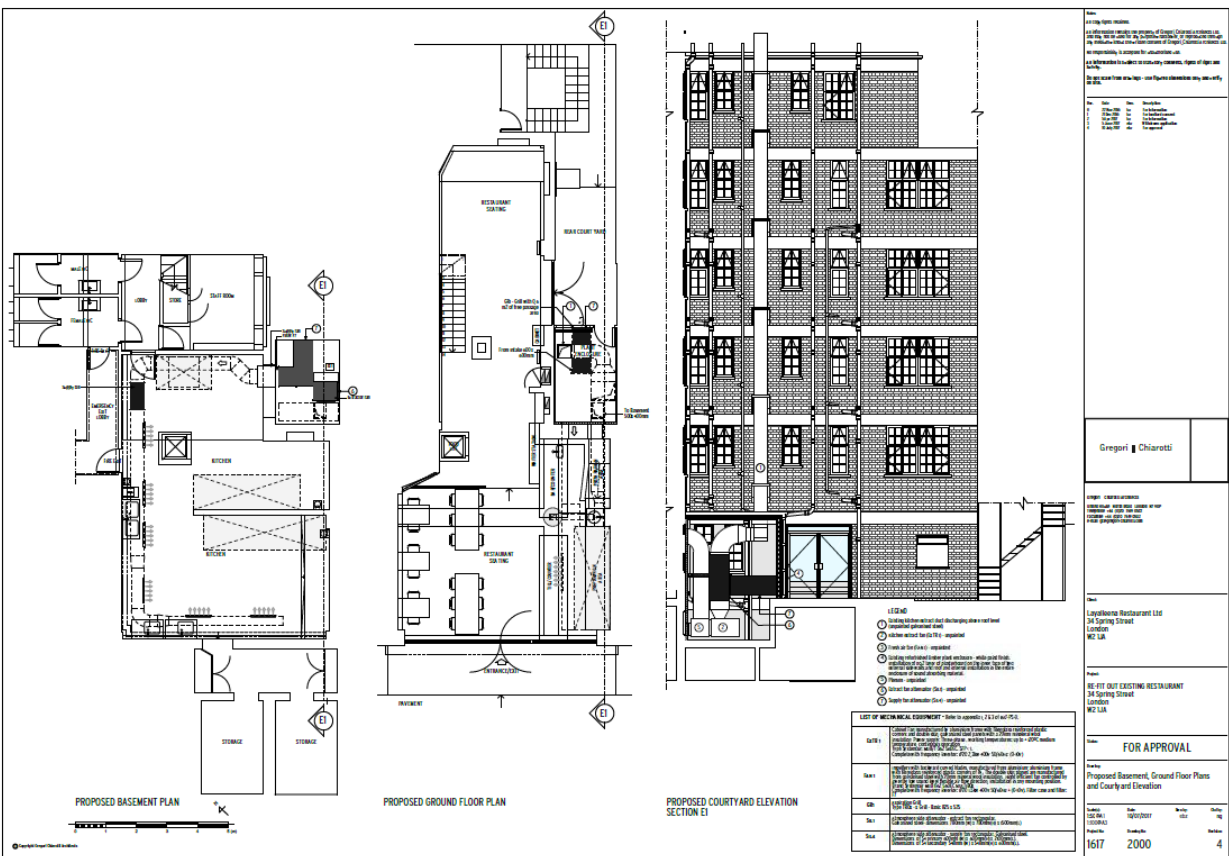
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: NATHAN BARRETT BY EMAIL AT northplanningteam@westminster.gov.uk

10. KEY DRAWINGS



Existing Plans & Elevations



Proposed Plans & Elevations

DRAFT DECISION LETTER

Address: 34 Spring Street, London, W2 1JA,

Proposal: Installation of one supply and one extract fan to the rear ground floor and refurbishment of existing timber plant enclosure.

Reference: 17/06089/FULL

Plan Nos: 0001 Rev 0, 1000 Rev 0, 2000 Rev 4, Design and Access Statement, Planning Statement, Acoustic Consultancy Report dated 22 May 2017, 2929EN-ME3-00-04-Detail, Filters Specification and Plasmaclean Specification.

Case Officer: Frederica Cooney

Direct Tel. No. 020 7641 7802

Recommended Condition(s) and Reason(s)

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
- o between 08.00 and 18.00 Monday to Friday;
 - o between 08.00 and 13.00 on Saturday; and
 - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to

this permission. (C26AA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Bayswater Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 4 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
- (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
- (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:
- (a) A schedule of all plant and equipment that formed part of this application;
 - (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
 - (c) Manufacturer specifications of sound emissions in octave or third octave detail;
 - (d) The location of most affected noise sensitive receptor location and the most affected window of it;
 - (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
 - (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
 - (g) The lowest existing LA90, 15 mins measurement recorded under (f) above;
 - (h) Measurement evidence and any calculations demonstrating that plant and equipment

complies with the planning condition;

(i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 5 The plant/machinery hereby permitted shall not be operated except between 0600 hours and 2300 hours daily.

Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007.

- 6 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 Under the Construction (Design and Management) Regulations 2007, clients, the CDM Coordinator, designers and contractors must plan, co-ordinate and manage health and safety throughout all stages of a building project. By law, designers must consider the

following:

* Hazards to safety must be avoided if it is reasonably practicable to do so or the risks of the hazard arising be reduced to a safe level if avoidance is not possible;

* This not only relates to the building project itself but also to all aspects of the use of the completed building: any fixed workplaces (for example offices, shops, factories, schools etc) which are to be constructed must comply, in respect of their design and the materials used, with any requirements of the Workplace (Health, Safety and Welfare) Regulations 1992. At the design stage particular attention must be given to incorporate safe schemes for the methods of cleaning windows and for preventing falls during maintenance such as for any high level plant.

Preparing a health and safety file is an important part of the regulations. This is a record of information for the client or person using the building, and tells them about the risks that have to be managed during future maintenance, repairs or renovation. For more information, visit the Health and Safety Executive website at www.hse.gov.uk/risk/index.htm.

It is now possible for local authorities to prosecute any of the relevant parties with respect to non-compliance with the CDM Regulations after the completion of a building project, particularly if such non-compliance has resulted in a death or major injury.

- 3 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.